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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

SEAN ELLISON ANDERSON,

Defendant and Appellant.

E048607

(Super.Ct.No. FMB008031)

OPINION

APPEAL from the Superior Court of San Bernardino County. Bryan Foster,  
Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Sean Ellison Anderson appeals the denial of his motion to  
suppress evidence. (Pen. Code, §1538.5.) We affirm.

## FACTUAL AND PROCEDURAL BACKGROUND<sup>1</sup>

Although defendant was tried with a codefendant and convicted by a jury of several offenses, the current appeal is directly related only to defendant's conviction on count 5, possession of methamphetamine for sale. (Health & Saf. Code, §11378.) This conviction was based on evidence found on defendant's person on December 17, 2005. At defendant's trial, a deputy testified he was on active patrol on a training assignment and was traveling in a patrol car with a trainee, traveling westbound in an alleyway in Twentynine Palms. The deputy saw defendant riding an off-road motorcycle heading eastbound in the alleyway but then lost sight of the motorcycle. He later saw defendant walking on the street in the vicinity of the alleyway. Defendant began to run as soon as he saw the patrol car. The deputy chased defendant on foot, caught him, and ordered him to lie on the ground. The deputy handcuffed defendant from behind and asked his name. Defendant identified himself as Jumal Andrews.

The deputy asked defendant whether he had any identification. Defendant indicated he had identification in his pocket. The deputy searched defendant's pockets and found an identification card in the name of Kelly Jumal Andrews bearing a photograph of defendant, as well as a blue canvas pouch containing 11 individual baggies of what was later determined to be methamphetamine; two baggies containing marijuana; and \$800 in cash, including a single \$100 bill and thirty-five \$20 bills. Defendant also

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<sup>1</sup> The facts have been summarized from our unpublished opinion in case No. E041325.

had two cell phones in his possession, which rang constantly from the time he first came into contact with the deputy until the phones were placed in an evidence locker at the police station. At trial, defendant stipulated he used the name Kelly Jumal Andrews when he was arrested and booked on December 17, 2005.

Based on the jury's conviction on all of the charges, as well as four prior strike convictions, the court sentenced defendant to a total of 52 years to life in state prison. Defendant appealed on various grounds and also filed a petition for writ of habeas corpus claiming he received ineffective assistance of counsel because his trial attorney failed to seek suppression of the evidence obtained during the search of defendant's person on December 17, 2005.

On August 28, 2008, we issued an unpublished opinion (case No. E041325) affirming the convictions but concluding defendant's petition for writ of habeas corpus stated a prima facie case for relief. As a result, we issued an order to show cause why the petition should not be granted. The order to show cause was returnable to the superior court with directions to conduct an evidentiary hearing, if warranted, to determine whether the search of defendant's person on December 17, 2005, violated the Fourth Amendment. We reasoned that because defendant's trial counsel did not file a motion to suppress, there was insufficient evidence in the record to determine whether such a motion would have been successful. The issues to be considered were whether the arresting deputy had reasonable grounds to believe defendant was armed and dangerous; whether defendant consented to the search or any part of it; and whether the deputy's search was conducted pursuant to a valid arrest.

In April 2009, the superior court held an evidentiary hearing on defendant's motion to suppress evidence and considered testimony by defendant and the arresting deputy. Based on the evidence presented at the hearing, the trial court concluded the deputy had valid reasons for detaining defendant. The court also concluded defendant knew the officer was attempting to stop and detain him. As a result, defendant's act of running away delayed the officer in his duties and provided a valid ground for defendant's arrest. Therefore, the subsequent search of defendant's person did not violate the Fourth Amendment. Having reached this conclusion, the court denied defendant's motion to suppress evidence and reinstated the judgment previously entered.

#### DISCUSSION

On June 17, 2009, defendant filed a notice of appeal. We appointed counsel to represent defendant on appeal. Appointed counsel on appeal has filed a brief under *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth the facts and procedural history, raising no specific issues, and requesting this court to conduct an independent review of the record. On October 5, 2009, we offered defendant an opportunity to file a personal supplemental brief, which he failed to do. We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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RAMIREZ  
P. J.

We concur:

McKINSTER  
J.

RICHLI  
J.